

VZCZCXRO9128
RR RUEHBZ RUEH DU RUEHJO RUEHMR RUEHRN
DE RUEHSA #2573/01 3301319
ZNR UUUUU ZZH
R 251319Z NOV 08
FM AMEMBASSY PRETORIA
TO RUEHC/SECSTATE WASHDC 6525
INFO RUCNSAD/SOUTHERN AF DEVELOPMENT COMMUNITY COLLECTIVE
RUCPDC/DEPT OF COMMERCE WASHDC
RUEATRS/DEPT OF TREASURY WASHINGTON DC

UNCLAS SECTION 01 OF 02 PRETORIA 002573

SIPDIS

PLEASE PASS TO US DOJ FOR M-F. KOUAME

E.O. 12958: N/A

TAGS: [ECON](#) [KIPR](#) [SF](#)

SUBJECT: JUDICIAL WORKSHOP ON INTELLECTUAL PROPERTY CASE
ADJUDICATION

¶1. (U) Summary: More than 200 South African regional magistrates attended a USG-funded IPR workshop near Johannesburg on November 13-15. The workshop follows earlier USG-funded programs on the investigation and prosecution of IPR offenses. These programs have enhanced the capacity of South Africa's legal system to enforce IPR laws, and post will explore the possibility of future IPR programs in South Africa. Post thanks Judge Donald of the Western District of Tennessee and Chief Judge Damich of the U.S. Court of Federal Claims for making vital contributions to the success of the workshop. End Summary.

IPR Adjudication Workshop

¶2. (U) More than 200 South African regional magistrates attended a workshop on the adjudication of intellectual property rights (IPR) cases on November 13-15 in the Johannesburg suburb of Vanderbiljpark. The workshop was INL-funded and organized jointly by the U.S. Department of Justice (DOJ), the Association of Regional Magistrates of Southern Africa (ARMSA), the South Africa Department of Trade and Industry (DTI), and post.

¶3. (U) The objective of the workshop was to increase the judiciary's level of expertise in IPR cases. The course material focused on trial procedures, remedies, and sentencing in complex copyright, trademark and trade secret cases. The seminar encouraged cooperation and information-sharing between the regional magistrates, and featured lively exchanges between the U.S. officials and the regional magistrates.

Prominent Participants

¶4. (U) Ambassador Eric Bost and DTI Deputy Trade Minister Dr. Rob Davies provided opening remarks. Both emphasized the importance of IPR protection to foreign direct investment and consumer health and safety. DOJ prosecutor Marie-Flore Kouame led the workshop, and officials from DOJ, USDOC and ARMSA moderated panel sessions. U.S. District Judge Donald of the Western District of Tennessee and Chief Judge Edward Damich of the U.S. Court of Federal Claims made several presentations on topics ranging from determining whether a copyright is valid to how to sentence a criminal defendant. The U.S. judges also gamely participated in role plays that were tailored to South Africa to highlight how to deal with specific IPR adjudication issues. South African Supreme Court of Appeals Justice Louis Harms, the preeminent expert on IPR matters in South Africa, explained the statutory framework for IP in South Africa and gave practical pointers on copyright, trademark and civil remedies. All of the sessions, and, in particular, the role plays, were

high-spirited. One of the regional magistrates was so enthused by the workshop that prior to a session, she led all of the attendees in singing a South African song. A comprehensive exchange of questions and ideas between the presenters and the magistrates followed each session.

¶5. (U) Post received full support from ARMSA President Adriaan Bekker and DTI Chief Director for IPR Enforcement Mandla Mynatheli, who noted, respectively, that the workshop was "considered very productive" by the magistrates and "a great success." An Assistant U.S. Attorney on a long-term TDY in South Africa also attended the workshop, and afterwards raved about how well-presented and useful the presentations were. Many participants commented that the success of the workshop stemmed from its practicality, interactive nature, and cultural sensitivity. Many workshop attendees expressed pleasure that the workshop's agenda, faculty, and chairpersons reflected the diversity of South Africa.

Comment: Much Accomplished, Much Yet To Do

¶6. (U) The judicial workshop follows on the success of earlier USG programs on the investigation and prosecution of IPR crimes in South Africa. While South Africa has specialized commercial crime courts, sitting magistrates are frequently overwhelmed or unfamiliar with the technicalities of IPR. According to SAG officials and the private bar, the lack of technical training on IPR cases leads to enforcement problems and a lack of adequate sentencing in IPR cases.

PRETORIA 00002573 002 OF 002

DOJ, ARMSA, DTI, and post developed this interactive workshop to address these issues, encourage an exchange between U.S. and South African experts, and enhance law enforcement cooperation. DOJ plans to assess the impact of the workshop on the regional magistrates' case work in approximately six months.

¶7. (U) The success of this IP case adjudication workshop indicates that the SAG is paying attention to IPR issues and is willing to seek assistance to improve its enforcement efforts. The DTI has expressed interest in future cooperation on law enforcement practical training programs. For South African officials to implement best practices on IPR matters, the USG must continue our joint training and education efforts. Post hopes to explore the possibility of further IPR programs in South Africa and the region and recommends holding a similar workshop for judges from all of the South African Customs Union (SACU) member countries. Post also supports USG plans to hold an intellectual property awareness campaign targeted at small and medium size entrepreneurs and training workshops for customs officials from Southern Africa Development Community (SADC) countries.

¶8. (U) This cable has been cleared with USDOJ Marie-Flore Kouame.
BOST